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October 7, 1997

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mr. Richard Metzger
Deputy Chief, Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

Re: EX PARTE in Local Number Portability, CC Docket No. 95-116

Dear Mr. Metzger:

The Telecommunications Act of 1996 requires that local number portability (LNP) costs be borne by all carriers on a "competitively neutral basis." In carrying out this Congressional mandate, the Commission should ensure that, prior to implementation of a cost recovery mechanism, the incumbent local telephone companies (ILECs) have submitted definitive and substantiated documentation of the actual costs incurred by them to implement LNP. To this end, the Commission should require the ILECs to provide cost data in a consistent format modeled on the Tariff Review Plans (TRPs) that the Commission has used in other contexts.

I. Background

In the cost recovery Notice of Proposed Rulemaking (Notice), the Commission tentatively identified the following three categories of costs that will be incurred as the industry implements permanent LNP:

Category 1 - the costs of shared facilities, such as the number portability database, and administration of that database;

Category 2 - carrier-specific costs to implement permanent LNP, such as the costs to purchase the switch software implementing local number portability; and

Category 3 - carrier-specific costs not directly related to permanent LNP, such as upgrades to SS7 or AIN technologies.

The Commission has tentatively concluded that the "competitively neutral" standard in Section 251(e)(2) applies only to number portability costs, and not to the recovery of

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carrier-specific, non-number portability-specific costs in Category 3. Based on MCI's review of the record, most parties agree with the Commission's tentative conclusion.

With regard to Category 1 and Category 2 costs, Congress has granted the Commission the authority to specify cost recovery principles for permanent LNP. Because LNP is associated with local service, MCI believes LNP costs should be recovered in the intrastate jurisdiction and urges the Commission to specify the cost recovery principles that states must follow with regard to LNP. These cost recovery principles must ensure that costs are not unjustifiably assessed on certain carriers, such as competitive LECs and IXCs, who would then have to bear their own LNP costs in addition to the ILECs' LNP costs.

If the Commission finds that existing separations rules require some portion of LNP costs to be assigned to the interstate jurisdiction, these costs should remain outside of price caps. The Commission excluded expanded interconnection rates from price cap regulation in order to prevent anti-competitive gaming of the rates, and to allow a cost based review of rates. Permanent LNP costs, if recovered in interstate rates, should be accorded the same treatment, since the anti-competitive price squeeze potential recognized by the Commission in expanded interconnection rates is also present in the case of permanent LNP. Many of the same carriers that will compete with ILECs for local exchange service customers also purchase access services from those same ILECs.

II. The Commission Should Provide a TRP for ILEC LNP Cost Support

Regardless of the cost recovery mechanism that is adopted by the Commission, it is imperative that the Commission ensure that the ILECs recover only the reasonable Category 1 or Category 2 costs of LNP. To date, however, no ILEC has submitted to the Commission the type of definitive cost support that would permit an in-depth examination of what they have labeled LNP-specific costs. In particular, the present record does not provide any explanation for the wide variation between ILEC estimates. Given that the network architecture that supports LNP will be substantially the same for all Tier 1 LECs, there should be little variation in their Category 2 costs.

A fundamental problem with the estimates that the incumbent LECs have placed on the record is that they use broad cost categories. For example, in an April 18 *ex parte* Bell Atlantic/NYNEX lists costs as "end office/tandem," "OSS," and "signaling/database." Similarly, Pacific Bell, in its recent tariff filing, projects \$418 million in "expenses." Such broad categories do not permit the Commission to determine whether the claimed costs are in fact LNP-specific. The lack of detail also prevents the Commission from assessing the degree to which the cost estimates are inflated or if the ILECs are seeking to double-recover certain costs.

To facilitate Commission review of the ILECs' LNP cost claims, the Commission should require the ILECs to file their cost support data on the public record pursuant to a uniform TRP format. The TRP should 1) present the cost information in well-defined categories that permit comparison of the ILECs' estimates; 2) provide sufficient detail for the Commission to determine whether the claimed costs are in fact Category 1 or Category 2, and not Category 3; and 3) provide sufficient detail for the Commission and interested parties to assess the reasonableness of the claimed costs. In addition, if the Commission determines that a portion of LNP costs will be recovered in the interstate jurisdiction, the TRP format should show the separation of costs between jurisdictions. This will guard against the ILECs claiming the same costs in both the interstate and intrastate jurisdictions.

To achieve these objectives, the Commission could model the LNP TRP on the TRP that was used in the Commission's review of the ILECs' expanded interconnection tariffs. In the expanded interconnection proceeding, the Commission required the ILECs to report costs according to the basic functions associated with expanded interconnection service.¹ The Commission adopted this functional organization for the TRP because it avoided some of the confusion that resulted when different LECs employed different terminology to describe costs and proposed rate elements. Similarly, the Commission required ILECs to present cost data according to network component in its review of their 800 data base tariffs.² By organizing the LNP TRP by function or network component, the Commission would allow comparison of the ILECs' estimates and also ensure that cost support is provided at an appropriate level of aggregation, avoiding the broad cost categories that the ILECs have employed to date. Cost categories could include: local switch costs (primarily LNP software), SCPs, STPs, the LSMS, SS7 links, LNP-specific OSS, and the NPAC.

A sample TRP page is shown in the Attachment. As with the expanded interconnection TRP, the TRP should require the ILECs to provide a complete list of plant and equipment for each function, including the name of the plant or equipment items, the associated Part 32 account numbers, investment amounts, and estimated depreciable lives. Similar descriptions and Part 32 detail should be provided for expenses. In addition to this information, the LNP TRP should require the ILECs to state, for each investment or expense item, the corresponding separations category, the separations factor, and the interstate and intrastate amounts. ILECs should be required to provide a separate TRP for each year in which they expect to incur new LNP-specific investment or expense. Regardless of the cost recovery method chosen by the Commission, cost support in the

¹ See Virtual Collocation TRP Order, 9 FCC Rcd 5679; Special Access Expanded Interconnection Designation Order, 8 FCC Rcd 6909.

² 800 Data Base Designation Order, 8 FCC Rcd 5132.

form of year-by-year expense and investment detail will be required.

ILECs should also be required to file supporting documentation similar to that required in the expanded interconnection proceeding. This documentation should include a complete explanation of how the costs for each item were derived, including relevant worksheets. For example, ILECs should state the number of new SCPs that are reflected in the investment figures, or the number of end offices in which they plan to deploy LNP software. ILECs should be required to provide the engineering basis for the number of additional SCPs or SS7 links that they plan to deploy. In addition, the ILECs should be required to demonstrate that each investment or expense claimed as Category 2 is in fact "directly related" to LNP. To the extent that investment or expense items reflect labor costs, the ILECs should describe each labor function, provide the estimated number of hours required for each function, and provide the estimated labor costs.

III. The Commission Should Specify Which Costs Are Category 2

While the ILECs' cost estimates do not provide sufficient detail for an in-depth examination of the claimed costs, it is nonetheless apparent that the ILECs' estimates of Category 2 costs include significant amounts that should properly be characterized as Category 3. For example, the LNP cost estimate in BellSouth's July 7 *ex parte* includes over \$131 million in AIN expense. U S West has included the cost of replacing some of its switches in its estimates. Similarly, many ILECs are claiming not only the cost of the LNP feature, but also the cost of upgrading to the most recent switch software generic. Because new switches, upgraded switch processors, switch generics, SS7, and AIN are associated with the provision of a wide variety of services unrelated to number portability, it is clear that the costs of these upgrades should not be classified as Category 2.

Because of the incentives for the ILECs to claim Category 3 costs as Category 2, the Commission should, as it did in the 800 number portability proceeding, clarify which costs the ILECs may claim as "directly related" to LNP. Before the ILECs filed their 800 data base tariffs, the Commission stated that it anticipated that "directly related" costs would be the costs associated with SCPs, the SMS, links between SCPs and the SMS, and links between the STPs and SCPs, to the extent such costs were directly attributable to 800 service.³ The Commission should provide similar guidance in this proceeding. In addition, the Commission should, as it did in the 800 number portability proceeding, state that the burden is on ILECs claiming costs in addition to those specified to demonstrate that the costs are in fact "directly related" to LNP.

³ 800 Data Base Rate Structure Order, 8 FCC Rcd 907, 911.

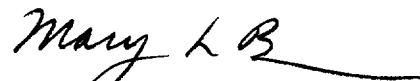
As the Commission discussed in the Notice of Proposed Rulemaking, classifying the costs of upgrading SS7 capabilities or adding IN or AIN capabilities as Category 3 is consistent with the approach taken in implementing 800 number portability. The 800 number portability proceeding clarifies the classification of costs in other respects as well. For example, several ILECs have claimed in the LNP proceeding that the costs of advancing a planned network upgrade in order to provide LNP should be classified as Category 2. However, in the 800 number portability proceeding, the Commission did not allow exogenous treatment for the cost of accelerating SS7 deployment to meet the Commission's implementation timetable for 800 data base service.⁴

Finally, the Commission should make clear that only the costs of new OSS directly related to the provision of number portability will be considered Category 2. Several ILECs are claiming exorbitant OSS upgrade costs, most of which are not "directly related" to the basic task of querying the number portability database and delivering the call to its destination. The fact that the ILECs' legacy systems may have to be upgraded to, among other things, recognize a competitive environment in which a telephone number is not necessarily associated with a particular network element does not mean that these costs are "directly related" to the provision of number portability. In addition, there has been no demonstration that these upgrade costs are not being recovered in other nonrecurring or recurring charges.

IV. Conclusion

Consistent with its statutory mandate, the Commission should adopt LNP cost recovery rules that are competitively neutral and which recognize that LNP benefits local exchange customers. Moreover, regardless of which cost recovery mechanism the Commission adopts, the Commission should provide a consistent TRP format for the ILECs' LNP cost support and clear guidelines for distinguishing between Category 2 and Category 3 costs.

Very truly yours,


Mary L. Brown

cc: Mr. James Schlichting

⁴ Id.

ATTACHMENT: SAMPLE TRP PAGE

**<NETWORK COMPONENT>
<YEAR>**

	Investment/ Expense Amount	Separations Category	Separations Factor	Interstate Investment/ Expense	Intrastate Investment/ Expense
INVESTMENT					
List: Name - Pt. 32 Acct. - Dep. Life					
List: Name - Pt. 32 Acct. - Dep. Life					
List: Name - Pt. 32 Acct. - Dep. Life					
List: Name - Pt. 32 Acct. - Dep. Life					
List: Name - Pt. 32 Acct. - Dep. Life					
List: Name - Pt. 32 Acct. - Dep. Life					
List: Name - Pt. 32 Acct. - Dep. Life					
TOTAL INVESTMENT					
EXPENSES					
List: Name - Pt. 32 Acct. No.					
List: Name - Pt. 32 Acct. No.					
List: Name - Pt. 32 Acct. No.					
List: Name - Pt. 32 Acct. No.					
List: Name - Pt. 32 Acct. No.					
List: Name - Pt. 32 Acct. No.					
List: Name - Pt. 32 Acct. No.					
TOTAL EXPENSES:					